1: Cunningham G-3 (1846-47) 1854 AJ4 W. Tibetans AJ4

III.—ADMINISTRATION OF JUSTICE.

692 The administration of justice in Ladák was truly patriarchal. When any one was injured or aggrieved, he proceeded straight to the *Gyalpo* or *Kahlon* of his district, or to the *Goba* of his village, and represented his case. An assembly of five, or of seven elders* of the community was then called to hear and to decide 692 upon the case. In the capital the proceedings were 694 conducted with the observance of more form. The complainant made his case known to the *Lonpo*, or mayor, who reported it to the *Kahlon*, or prime minister. The *Shakspon*, or chief justice, was then directed to assemble a regular court, composed either of five or of seven members, according to the importance of the case. The members were selected, as in the provinces, from amongst the *Gatpas*, or "elders;" but to them were joined two or more *Khrimpons*, or "sitting magistrates," whose duty it was to expound the *Yul-khrim*,† 695 that is, the "law of the land," or civil law. The *Shaks-* 696 *khang*,‡ or "court of justice," was opened and closed by the sounding of the *Khrim-dung*,§ or "trumpet of justice," and the sentence of the court (excepting in capital cases) was carried into execution without delay.

* *rGad-pa*, pronounced *Gatpa*, an "old man," an "elder." The number of members points to a common origin with the universal and still prevailing *Panchayet*, or "assembly of five," throughout India. Five must have been the ancient number, as even a single arbitrator or umpire is now called "*Panch*."

† *Yul-khrims*, "land-law." In Ladák this word is pronounced *Yul-khrim*, but in Great Tibet it is corrupted to *Yul-thim*.

‡ *Shags-khang*, "justice-hall."

§ *Khrims-dung*, "justice-trumpet;" there was also a *Khrims-rNga*, "justice-drum."

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and for a fourth offence, death by drowning. These at least were the allotted punishments, and, with the exception of the last, they were generally carried into effect in all cases of robbery of public property or of church goods. But in cases of private robbery the usual influences had their weight. Near relationship might sway the judges to a milder sentence; or a fair bribe, judiciously bestowed, might induce the chief Láma of the monastery of Hémis to interfere, by an appeal to the king's mercy, which it was unusual to refuse. A direct appeal could also be made to the king by the prisoner's relatives, on the presentation of an offering of four or five rupees, if the criminal was a poor man, or of fifty to a hundred rupees, if he was a rich man.

For *Adultery*, where the woman was the guilty party, the paramour, as in Europe, was fined according to his means, or received an equivalent corporal punishment, while the husband had the option of taking back the woman, if he chose to do so. Or if he did not wish to keep her, he could retain her dowry. When the husband was the guilty party, the wife could demand back her dowry.

Common disputes, involving blows and abuse, were settled at once by fines and stripes.

In doubtful cases, where the evidence was unsatisfactory, a decision was obtained either by casting lots, or by ordeal. In the latter case, the accused had either to draw a red-hot iron through his hand, or to take a stone out of a pot of boiling oil without injury. In Great Tibet both of these ordeals are practised; but the latter is rendered much more complicated and difficult by the immersion of two stones, one black and the other white,

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in the boiling oil.* The extraction of the *white* stone, with an uninjured hand, is held as a complete proof of innocence; while the extraction of the *black* stone, with uninjured hand, is equivalent to the Scotch verdict of "not proven," of which the accused receives the benefit.

The foregoing is a concise account of the practical laws of Ladák under its native rulers. Amongst a people who were averse to the taking of any animal life, the sentence of death was but seldom enforced; the last case of capital punishment, which was executed in 1845, being the only one during thirty years; and I suspect that even this sentence would not have been carried into effect but for the stern and unbending firmness of *Magna*, the dogra thanadar of Lé. The culprit was a blacksmith of Chachot, who had been repeatedly punished by imprisonment, fines, and stripes, for pilfering the gilt leaves of books from the monasteries and the gilded pinnacles of the *Chodtens*, or mausolea. His last exploit was the entire removal of the copper-gilt pinnacles from the *Chodtens* attached to the large monastery of Hémis. The thanadar was proof against all appeals for mercy, chiefly, I believe, with a view to conciliate the religious brotherhood of Hémis, and partly as a stroke of policy in a newly-conquered country, to exhibit a marked example of unflinching firmness in the execution of the law. As a Hindu, Magna Thanadar was quite indifferent in the matter of life or death. The unfortunate thief was therefore bound hand and foot,

* Fra Orazio, del Regno del Thibet, p. 290. The Capuchin father declares that the Tibetans can save their hands from injury by the use of some secret art (si servono d'un certo secreto, o per arte magica).

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A Court in Lahul

December brings snow to the valleys. Thus Lahul is frozen tight most of the year. There is no place for much stock. A dzo or a cow or two is all a family has.

Even the independent farmers work land that usually is not theirs. They are largely squatters on government domain—families who have taken a likely-looking bench above a river, cleared it of rocks, and planted barley. Maybe the project prospered; more than likely it failed. And so one sees along the Chandra and the Bhaga grim outlines of old fields long forsaken. The family has moved on to another location, seeking brighter prospects.

I sat with my Sikh friend, Mahindar Singh Randhawa, the Tehsildar of Kyelang, as he held court at Jispa, fourteen miles above Kyelang. We sat in the open at a table on the edge of a stand of ancient juniper three or four feet in diameter while alpine choughs (glossy black with yellow beaks and red legs) soared overhead. Lahulis had come in from miles around for the court session. The men stood huddled around us, twisting their brimless and loosely woven wool caps. They were awed by the occasion—solemn and frightened too. This was the long arm of the law reaching out from remote Delhi to touch the lowliest of them. Their womenfolk and children had come to court with them. The women sat quietly in a circle on the perimeter of the court, knitting stockings and nursing babies. Women and children were also grim. There was no laughter in the crowd, no playfulness among the youngsters. This was the day of reckoning for their menfolk.

This court had no marshal, no court crier to announce it—no "oyez, oyez, oyez." The Tehsildar convened court by calling the names of the cases. The cases were actually *Punjab* vs. *Sonam*, *Punjab* vs. *Thundup*, *Punjab* vs. *Tsering*, etc. But this kind and warmhearted judge merely called the names of the farmers, and each replied. There were dozens of cases, and they took hours. The following is typical.

"Sonam, where is your farm?"

695 687 "Three miles below Jispa on the bench just below the junipers on the right hand of the Bhaga."

"That is government land."

"Yes."

"Did you pay for it?"

"No."

"Have you paid taxes?"

"No."

"Why not?"

"I have no money."

"How long have you been there?"

"Ten years."

"What crops do you grow?"

[243] "Barley and a few vegetables."

"How much barley a year?"

"One year I got very little. In other years just enough for me and my family. I have a wife and four children. They are over there" (pointing).

"Have you animals?"

[231] "My brother and I have a dzo between us. He works land near me. We both live in Jispa and walk three miles to our land every morning. My wife walks too, but she is not strong any more. Is there land we can have closer to our home?"

"All this land is government land. If you want it, you must make application for it. Then you must pay taxes. You never made application. You just walked onto the land and claimed it. And you have never paid any taxes."

"That is true. But how can I pay?" he asked with despair in his voice.

687 651 This was the story over and over again. The sun had set and a cool wind whistling down from Baralacha Pass was rustling the papers on the table when the Tehsildar took a recess for the day. Later this friendly officer sat with Rahul and me eating dinner

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My Sikh friend, Mihindar Singh Randhawa the Tehsildar of Kyelang, held court at Jispa, fourteen miles above Kyelang.

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Moti was content to be the laziest, the most irresponsible, the least worthy mule in all of Lahul or Ladakh.

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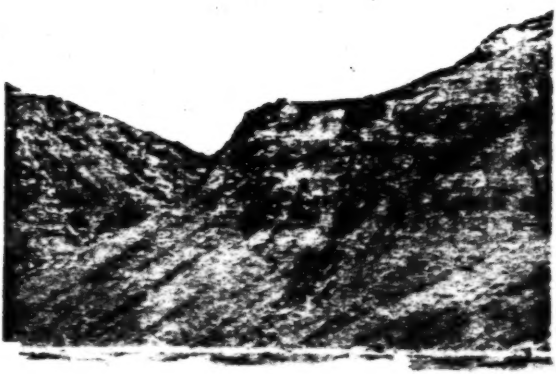

The day we left Chakchu we climbed steadily through strange and exciting country, headed for Gongrechen Pass and La Chulung La Pass.

[facing p. 97]

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the Mongols. The Mongols always came to India to plunder, not to rule. The Moslems, who were Aryans, first came to India to propagate their faith in the ninth century. They took over the rule of India in the twelfth century. And so it was that the Maharajah of Kashmir, militant in his faith and with an eye to its propagation, agreed to drive the Mongols from Ladakh on one condition. The condition was that he be allowed to build a mosque at Leh. He pointed out that many of his faith followed the caravan route from Srinagar to Leh to Yarkand and yet had no holy place during their long absences from Kashmir where they could pray to Allah. The King of Ladakh, more intolerant of the Tartar invader than the Moslem proselytizer, agreed to the condition. The mosque has thrived ever since.

The castle of the King of Ladakh, like the King himself, has not thrived. It stands on a cliff behind the mosque and towers over the town. It rises many stories, like an awkward skyscraper. Once it was a place of splendor. Here visiting royalty was entertained and feasts were spread. It was to this castle that emissaries from the various princes of Ladakh sped with payments of taxes and promises of fealty. It was in this castle that the kings of Ladakh made their compacts with lamas and so, through the use of spiritual power, welded together into a compact political unit the eight principalities of Ladakh.

The lamas still thrive. Their monasteries now hold the great wealth that this castle once commanded. The lamas utilized their spiritual power to acquire temporal strength. In the end, they surpassed the temporal power that gave them their freedom. The castle of the King of Ladakh, to be sure, still stands. But it is today empty—filled with cobwebs, bats, and the memories of an ancient power that events have transferred to other hands.

The law of Ladakh, administered by the ancient kings, had all the cruelty of our own early system. Ladakh knew trial by ordeal. It was resorted to when the evidence was unsatisfactory, when the judge with his human limitations needed supernatural wis-

671 dom to divine where the truth lay. Sometimes an accused would
•685 have to draw a red-hot iron through his hand or take a stone out of a pot of boiling oil. If he did this without injury, he would be in the clear. (The legends persist that there was a secret art for protecting the hands against such ordeals.) Sometimes the judge, when confused by the evidence, would cast lots instead and in that way determine on which side the truth lay.

681 Capital punishment in Tibet was cruel—pushing red-hot irons
674 into the temples, hurling the convicted person from a great height, smashing his joints with a hammer. In Ladakh, when a temple was spoliated or a person horribly murdered, the guilty one was either crucified or bound hand and foot, weighted with stones, and thrown into the Indus to drown. The usual punishment for crimes—whether adultery or theft—was whipping, fine, or imprisonment. There was a mounting scale of fury which society directed against the thief. For the second offense of stealing, he lost his left hand; for the third, his right hand; for the fourth, he was drowned in the Indus.

[175] At Leh I inquired about these practices, and I learned that they are now mostly history. They are history not only because the Kashmir law is an ameliorating one but because the Buddhist religion has made a vast difference in the lives of the people. Thus I could find in Leh no modern record of a crime of violence—murder, manslaughter, rape, assault and battery.

674 "Don't put too much reliance on the absence of rape," a junior officer laughingly told me. "The resistance point of the average Ladakhi woman is pretty low."

"How about killings?"

"None."

"Assaults?"

"None."

"Not even between husbands in polyandric families where several brothers must share one wife?"